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FILED
11 JUL 29 AM 8:23
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

MICHAEL MERCADO,

Plaintiff,

v.

ABSOLUTE COLLECTION

SERVICES,

Defendant.

Case No.:

CV 11-06262 DSF(AJW)

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(Unlawful Debt Collection Practices)

VERIFIED COMPLAINT

MICHAEL MERCADO (Plaintiff), by attorneys, KROHN & MOSS, LTD.,
alleges the following against ABSOLUTE COLLECTION SERVICES
(Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788 et seq. (RFDCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
4. Defendant conducts business in the state of California, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

6. Plaintiff is a natural person residing in Whittier, Los Angeles County, California.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)* and Defendant is attempting to collect a debt by communicating with Plaintiff as that term is defined by *15 U.S.C. 1692a(5)* and *Cal. Civ. Code § 1788.2(h)*.
8. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)* and *Cal. Civ. Code § 1788.2(c)*, and sought to collect a consumer debt by contacting Plaintiff.
9. Defendant is a national company located in Raleigh, North Carolina and conducts business in California.
10. At all times relevant to this Complaint, Defendant has acted through its agents employees, officers, members, directors, heir, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers in the District of California.

FACTUAL ALLEGATIONS

11. In June 2011, Defendant called Plaintiff trying to collect an alleged debt.

12. Defendant called Plaintiff, his employer as well as various family members.

13. Defendant threatened to garnish Plaintiff's wages by 25% if he did not pay Defendant.

14. Defendant gave Plaintiff a deadline of June 31, 2011 on this garnishment threat.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct of which the natural result is the abuse and harassment of the Plaintiff.
- b. Defendant violated §1692e(4) of the FDCPA by threatening to garnish Plaintiff's wages.
- c. Defendant violated §1692e(5) of the FDCPA by threatening to take action that cannot legally be taken or that Defendant does not intend, to wit: garnishment by June 31, 2011.

WHEREFORE, Plaintiff, MICHAEL MERCADO respectfully requests judgment be entered against Defendant, ABSOLUTE COLLECTION SERVICES, for the following:

16. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,

17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k

18. Any other relief that this Honorable Court deems appropriate.

COUNT II
DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT
COLLECTION PRACTICES ACT

19. Plaintiff repeats and re-alleges all of the allegations in Count I of Plaintiff's Complaint as the allegations in Count II of Plaintiff's Complaint.

20. Defendant violated the RFDCPA based on the following:

- a. Defendant violated the §1788.17 of the RFDCPA by continuously failing to comply with the statutory regulations contained within the FDCPA, 15 U.S.C. § 1692 et seq. to wit: Section 1692e(4) and Section 1692e(5).

WHEREFORE, Plaintiff, MICHAEL MERCADO, respectfully requests judgment be entered against Defendant, ABSOLUTE COLLECTION SERVICES, for the following:

21. Statutory damages pursuant to the Rosenthal Fair Debt Collection Practices Act, *Cal. Civ. Code §1788.30(b)*,

22. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection Practices Act, *Cal. Civ Code § 1788.30(c)*, and

23. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, Michael Mercado, demands a jury trial in this cause of action.

DATED: July 26, 2011

RESPECTFULLY SUBMITTED,
KROHN & MOSS, LTD.

By: _____

Ryan Lee
Attorney for Plaintiff

1 VERIFICATION OF COMPLAINT AND CERTIFICATION

2 STATE OF CALIFORNIA

3 Plaintiff, Michael Mercado, states as follows:

- 4 1. I am the Plaintiff in this civil proceeding.
- 5 2. I have read the above-entitled civil Complaint prepared by my attorneys
- 6 3. I believe that this civil Complaint is well grounded in fact and warranted
- 7 by existing law or by a good faith argument for the extension,
- 8 4. I believe that this civil Complaint is not interposed for any improper
- 9 purpose, such as to harass any Defendant(s), cause unnecessary delay to
- 10 any Defendant(s), or create a needless increase in the cost of litigation to
- 11 any Defendant(s), named in the Complaint.
- 12 5. I have filed this Complaint in good faith and solely for the purposes set
- 13 forth in it.
- 14 6. Each and every exhibit I have provided to my attorneys which has been
- 15 attached to this Complaint is a true and correct copy of the original.
- 16 7. Except for clearly indicated redactions made by my attorneys where
- 17 appropriate, I have not altered, changed, modified or fabricated these
- 18 exhibits, except that some of the attached exhibits may contain some of
- 19 my own handwritten notations.

20 Pursuant to 28 U.S.C. § 1746(2), I, Michael Mercado, hereby declare (or

21 certify, verify or state) under penalty of perjury that the foregoing is true and

22 correct.

23 DATE: 6-22-11

24 
25 Michael Mercado